

# ReedSmith

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July 14, 2005

**VIA TELEFAX 703-872-9306**Commissioner for Patents  
MAIL STOP AMENDMENT  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: Applicants: McCUNE et al.  
Title: INTEGRATED FILTER HOUSING  
WITH ASSOCIATED CLEANING  
SYSTEM AND METHOD

Serial No.: 09/812,059  
Filed: March 19, 2001  
Art Unit: 1724  
Examiner: Robert Popovics  
Docket No.: 01-035-US

Dear Sir:

Enclosed are the following for filing in connection with the above-referenced application:

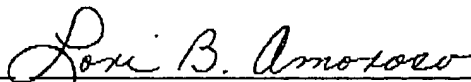
1. A Response to Restriction Requirement.

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

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Lori B. Amoroso



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Commissioner for Patents  
July 14, 2005  
Page 2

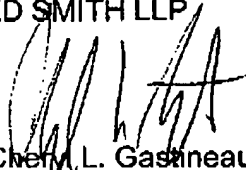
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REED SMITH LLP

By

  
Cheryl L. Gastineau

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Page 2

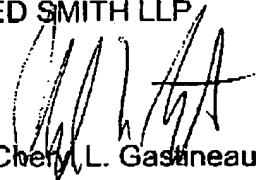
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REED SMITH LLP

By

  
Cheryl L. Gasineau

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 14 2005

In re Application of:

McCUNE et al.

Serial No. 09/812,059

Filed: March 19, 2001

Art Unit: 1724

Examiner: Robert Popovics

Attorney Docket No.: 01-035-US

**INTEGRATED FILTER HOUSING WITH  
ASSOCIATED CLEANING SYSTEM AND  
METHOD**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

Dear Sir:

In response to the Restriction Requirement mailed June 15, 2005, applicants provisionally elect Group I and Species I (Claims 6-9, 11, 12, 26, 27 and 29) with traverse.

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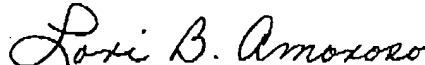
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Serial No.: 09/812,059  
Atty. Docket No.: 01-035-US

### **RESPONSE TO RESTRICTION REQUIREMENT**

In the outstanding Office Action, the Examiner has required restriction under 35 U.S.C. §121 between Claims 6-9, 11, 12 and 26-30 (Group I), drawn to Filter Housing, classified in class 210, subclass 248, and Claims 14-16 (Group II), drawn to Filter Housing Cleaning System, classified in class 15, subclass 3. While the Examiner has grouped Claim 30 with Group I, applicants submit he should have grouped Claim 30 with Group II because of its dependency on Claim 14. The Examiner stated that the inventions of Groups I and II are related as subcombinations disclosed as usable together in a single combination.

The Examiner has also required an election of species between:

Species I: sloped/channeled towards outlet manifold; and

Species II: sloped/channeled towards inlet manifold.

Applicants strongly traverse these requirements.

In order for a restriction requirement to be proper, there must be the existence of a "serious burden" on the Examiner if a restriction requirement were not issued. MPEP § 803, in relevant part, states that:

"[i]f the search and examination of an entire application can be made without serious burden, the examiner ~~must~~ examine it on the merits, even though it includes claims to distinct or independent inventions. ~~\*\*~~"

Since applicants provisionally elect Group I herein, there would be no "serious burden" for the Examiner to also examine the claims of Group II, (Claims 14-16 and 30). Not only has the Examiner issued three Office Actions examining Claims 14-16, he also indicated Claims 14-16 to be allowable over the art of record in the Advisory Action mailed July 8, 2004. Moreover, the Examiner previously grouped the claims of Group II with the claims of Group I in the initial restriction requirement of August 12, 2002.

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Applicants further submit the Examiner's grounds for restriction are without merit. The Examiner alleges the inventions of Groups I and II are related as subcombinations disclosed as usable together in a single combination. The invention of Group II, however, is drawn to a system which includes a filter housing dome, integrated base and cleaning wand. The invention of Group I includes a filter housing dome and integrated base assembly. Thus, the filter housing dome, integrated base and cleaning wand of Group II is not a "subcombination" usable in a single combination with the filter housing dome and integrated base assembly of Group I. This would require the single combination to have two filter housings and two integrated base assemblies, an arrangement not disclosed by applicants.

Applicants submit the requirement for an election of species is also without merit. The Examiner alleges the application is directed to two species: Species I (sloped/channeled towards outlet manifold); and Species II (sloped/channeled towards inlet manifold.) Applicants, however submit these are characteristics of a *single* disclosed embodiment best shown in Fig. 2 and described in paragraphs 33-35 of the original disclosure. MPEP 806.03, in relevant part, states that:

"Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definitions. \*\*"

Applicants submit the claims of the alleged different species highlight different features of the *single* disclosed embodiment of recession 214. Applicants submit applicants are entitled to claims of varying breadth and scope. For arguments sake, however, 37 C.F.R. § 1.141 provides that a reasonable number of species may still be claimed in one application. Since applicants are required to make this election, applicants elect Species I, Claims 6-9, 11, 12, 26, 27 and 29 of Group I. Despite the Examiner's statement that there are no generic claims, applicants submit Claim 29 from Group I is generic, as well as Claims 14-16 and 30 of Group II. None of Claims 29, 30 or 14-16 defines a recession in terms of an outlet or inlet.

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### CONCLUSION

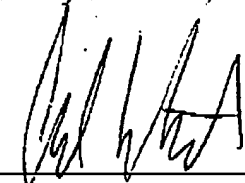
Applicant submits Examiner Popovics has unnecessarily delayed prosecution in this application by issuing an improper restriction requirement after four previous office actions which included a previous restriction requirement and an improper final rejection. This has increased the pendency of the instant application thus, going against the goal of the U.S. Patent Office to reduce pendency and has caused applicants to file unnecessary arguments.

During a telephonic interview with Supervisory Patent Examiner Duane Smith on July 14, 2005, Mr. Smith agreed to transfer the application to a different examiner and to monitor the examination accordingly. To conserve the time of both the Office and the applicants herein, it is respectfully requested that the U.S. Patent Office withdraw the outstanding Restriction Requirement. Applicants submit all outstanding claims are in condition for allowance, and prompt notice to that effect is respectfully requested.

Respectfully submitted,

Dated: July 14, 2005

By

  
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